UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT CHATTANOOGA

UNITED STATES OF AMERICA)	
)	Case No. 1:10-CR-9
v.)	
)	
EARNEST MONTGOMERY)	COLLIER/CARTER

REPORT AND RECOMMENDATION

An August 23, 2010, forensic evaluation from the Federal Bureau of Prisons Federal Medical Center in Lexington, Kentucky was received by the undersigned Magistrate Judge on September 2, 2010. It is the opinion of the examiner that defendant does not suffer from a severe mental disorder or defect that would preclude his ability to understand the nature and consequences of the proceedings against him, or to assist his attorney in his own defense. Also, it is the opinion of the examiner that at the time of the commission of the acts constituting the alleged offenses, the defendant did not have symptoms of a major mental illness or defect of such severity that they precluded his ability to appreciate the nature and quality or the wrongfulness of his actions.

A waiver of competency hearing signed by defendant and submitted by Atty. Anthony Martinez was filed on September 23, 2010. It is therefore ORDERED that the waiver be filed as a part of the record. The Court RECOMMENDS on the basis of the waiver and the report that defendant Earnest Montgomery be found competent to stand trial.¹

y/William B. Mitchell Carter
UNITED STATES MAGISTRATE JUDGE

¹Any objections to this Report and Recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 59(b)(2) of the Federal Rules of Criminal Procedure. Failure to file objections within the time specified waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 88 L.Ed.2d 435, 106 S.Ct. 466 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive or general. *Mira v. Marshall*, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. *Smith v. Detroit Federation of Teachers*, 829 F.2d 1370 (6th Cir. 1987).